

COMMISSIONER FOR PATENTS  
Alexandria, VA 22313-1450Docket No.: 206.1119  
Date: December 10, 2003

In re application of: Kevin C. BYNUM et al.  
Serial No.: 09/918,239  
Filed: July 30, 2001  
For: **METHOD AND APPARATUS FOR THREE DIMENSIONAL IMAGING USING INFRARED RADIATION**

Sir:

Transmitted herewith is a **Petition Requesting Withdrawal Of The Holding Of Abandonment** in the above-identified application.

- ☐ Small entity status under 37 C.F.R. 1.9 and 1.27 has been previously established.
- ☐ Applicants assert small entity status under 37 C.F.R. 1.9 and 1.27.
- ☐ No fee for additional claims is required.
- ☐ A filing fee for additional claims calculated as shown below, is required:

- ☒ Also transmitted herewith are:
  - ☐ Petition for extension under 37 C.F.R. 1.136 (in duplicate)
  - ☒ Other: **-copy of Notice of Abandonment (1 page);**  
**-Exhibit A ( 8 pages );**  
**-Exhibit B (1 page);**  
**-Response to Notice To File Missing Parts (2 pages);**  
**-executed Declaration and Power of Attorney document**

- ☐ Check(s) in the amount of **\$00.00** is/are attached to cover:
  - ☐ Filing fee for additional claims under 37 C.F.R. 1.16
  - ☐ Petition fee for extension under 37 C.F.R. 1.136
  - ☐ Other:

- ☒ The Assistant Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-0552.

- ☒ Any filing fee under 37 C.F.R. 1.16 for the presentation of additional claims which are not paid by check submitted herewith.
- ☒ Any patent application processing fees under 37 C.F.R. 1.17.
- ☒ Any petition fees for extension under 37 C.F.R. 1.136 which are not paid by check submitted herewith, and it is hereby requested that this be a petition for an automatic extension of time under 37 CFR 1.136.



Cary S. Kappel, Reg. No. 36,561  
DAVIDSON, DAVIDSON & KAPPEL, LLC  
485 Seventh Avenue, 14<sup>th</sup> Floor  
New York, New York 10018  
Tel: (212) 736-1940  
Fax: (212) 736-2427

I hereby certify that this correspondence and/or documents referred to as attached therein and/or fee are being deposited with the United States Postal Service as "first class mail" in an envelope addressed to " Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on December 10, 2003

DAVIDSON, DAVIDSON &amp; KAPPEL, LLC

BY: 



206.1119

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

Examiner: Not Yet Known Art Unit: 2882

Re: Application of: Kevin C. BYNUM et al.

Serial No.: 09/918,239

Filed: July 30, 2001

For: **METHOD AND APPARATUS FOR THREE  
DIMENSIONAL IMAGING USING INFRARED  
RADIATION**

**PETITION UNDER 37 CFR 1.181(a) REQUESTING WITHDRAWAL OF THE  
HOLDING OF ABANDONMENT**

**Mail Stop: Missing Parts**  
Commissioner For Patents  
Alexandria, Va 22313-1450

December 10, 2003

**RECEIVED**

JAN 05 2004

Sir:

OFFICE OF THE SPECIAL  
PROGRAMS EXAMINER

The law firm of the undersigned attorney has received a Notice of Abandonment, dated October 22, 2003, from the U.S. Patent and Trademark Office with regard to the above-identified U.S. patent application. The Notice of Abandonment stated that the application was being abandoned due to Applicants' failure to timely or properly file a reply to a Notice To File Missing Parts mailed on September 19, 2001.

**RECEIVED**  
DEC 19 2003  
TECHNOLOGY CENTER 2800

The undersigned attorney hereby declares that thorough searches of the file jacket for the above-identified patent application and firm docket records were made, and these searches indicate that no Notice To File Missing Parts dated September 19, 2001, was ever received by this law firm. As evidence of such, in accordance with M.P.E.P. § 711.03 (c), Applicants submit herewith, a true copy of the docket record for the law firm Davidson, Davidson & Kappel, LLC as Exhibit A, showing all replies docketed for the date November 22, 2001, 2 (two) months from the mailing date of the non-received Notice To File Missing Parts dated September 19, 2001. This docket record bears contemporaneous markings indicating fulfillment of certain of the docketed actions. However, the docket record does not show the due date for reply to the non-received Notice To File Missing Parts of the present application, indicating that the Notice was never received.

Applicants also submit herewith as Exhibit B, a true copy of the docket record of the responsible attorney for prosecution of this application (Cary S. Kappel), at the law firm Davidson, Davidson & Kappel, LLC, showing all replies docketed for the date May 19, 2002, 8 (eight) months from the mailing date of the Notice To File Missing Parts dated September 19, 2001, which was the absolute deadline date for filing a Reply to the non-received Notice. However, the docket record does not show the due date for reply to the non-received Notice To File Missing Parts of the present application, indicating that the Notice was never received.

Applicants, therefore, petition the Assistant Commissioner for Patents to withdraw the holding of abandonment for failure to timely or properly reply to the Notice To File Missing Parts dated September 19, 2001, because Applicants' attorneys never received a copy of any communication that would have informed them of the obligation to reply.

This petition is being filed within two months of the mailing date (October 22, 2003) of the Notice of Abandonment from the U.S. Patent and Trademark Office. Thus, in accordance with 37 C.F.R. § 1.181(f), this petition is considered timely filed.

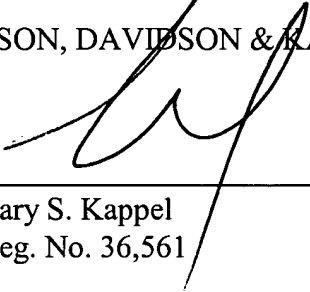
Although the law firm of the undersigned Attorney never received the Notice To File Missing Parts, Applicants submit herewith a Response to the non-received Notice To File Missing Parts, enclosing an executed Declaration and Power of Attorney document for the above-referenced application.

No fee is believed due. However if any additional fees are deemed to be due at this time, the Assistant Commissioner is authorized to charge payment of the same to Deposit Account No. 50-0552.

Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By

  
Cary S. Kappel  
Reg. No. 36,561

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UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/918,239	07/30/2001	Kevin C. Bynum	200.1119

CONFIRMATION NO. 3416

# ABANDONMENT/TERMINATION LETTER



\*OC000000011076858\*

23280  
 DAVIDSON, DAVIDSON & KAPPEL, LLC  
 485 SEVENTH AVENUE, 14TH FLOOR  
 NEW YORK, NY 10018

Date Mailed: 10/22/2003

## NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 09/19/2001.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



206.1119

**UNITED STATES PATENT & TRADEMARK OFFICE**

Examiner: Not Yet Known Art Unit: 2882

Re: Application of: Kevin C. BYNUM et al.

Serial No.: 09/918/239

Filed: July 30, 2001

For: **METHOD AND APPARATUS FOR THREE  
DIMENSIONAL IMAGING USING INFRARED  
RADIATION**

**RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION**

**Mail Stop: MISSING PARTS**

Commissioner for Patents  
Alexandria, VA 22313-1450

December 10, 2003

Sir:

In response to the Notice to File Missing Parts dated September 19, 2001, enclosed herewith is an executed Declaration and Power of Attorney document for the above-referenced application. As the Notice To File Missing Parts was never received by the law firm of the Applicants, a copy of the Notice is not enclosed.

07/19/2004 MNGUYEN 00000007 500552 09918239  
01 FC:1051 130.00 DA



This correspondence accompanies a Request To Withdraw the Holding of Abandonment of the application. Accordingly, no fee is enclosed. If however, any additional fees are deemed to be due at this time, the Assistant Commissioner is authorized to charge payment of the same to Deposit Account No. 50-0552.

Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By

Cary S. Kappel  
Reg. No. 36,561

Davidson, Davidson & Kappel, LLC  
485 Seventh Avenue, 14<sup>th</sup> Floor  
New York, New York 10018  
(212) 736-1940

# EXHIBIT A





REMINDER DATE / DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REPOCKET TO ... (NEW REMINDER OR DUE DATE)
19-Nov-01	APPROVAL OF TEXT DUE 12/31/01 & FILE DIVISIONAL	CMD	BSD	200.94330 EP	94 109 1153.9-2114			
19-Nov-01	OFFICE ACTION RESPONSE DUE 11/29/01 (DEADLINE DATE)	LBD	BSD	540.91195 CIP JP	09-537444			
19-Nov-01	APPROVAL OF TEXT DUE 12/31/01 & FILE DIVISIONAL	CMD	CMD/BSD	200.94330 EP	94 109 1153.9-2114			
19-Nov-01	OFFICE ACTION RESPONSE DUE 11/23/01 (W/1 MO. EXT.)	CMD	CMD/LBD	200.1015B CON	09/342964 6/29/99			
19-Nov-01	OFFICE ACTION RESPONSE DUE 11/23/01 (W/1 MO. EXT.)	CMD	CMD/LBD	207.1015B N4	09/523360 3/10/00			
19-Nov-01	PUBLICATION FEE DUE 12/10/01 (DEADLINE DATE)	CMD	CMD/LBD	200.1015B IL	120068			
19-Nov-01	OFFICE ACTION RESPONSE DUE 12/3/01 (W/1 MO. EXT.)	CMD	CMD/LBD	207.1015B N2	09/5233061 3/10/00			
19-Nov-01	FILE IDS & RCE BY 11/20/01	CMD	CMD/LSB	500.1007	09/284683 6/24/99	REMINDER LETTER SENT 9/26/01, AWAITING INSTRUCTIONS		

REMINDER DATE / DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REDOCKET TO ... (NEW REMINDER OR DUE DATE)
19-Nov-01	NOMINAL DEADLINE FOR ACCEPTANCE DUE 11/26/01 (W/4 MO. EXT.)	CMD	CMD/RVZ	200.93398 AU DIV2	44493/90			
19-Nov-01	OFFICE ACTION RESPONSE DUE 12/3/01 (W/2 MO. EXT.)	CSK	CSK	807.1004	09/943602 10/3/97			
19-Nov-01	FILE MISSING PARTS DUE 11/20/01	CSK	CSK/SJM	206.1001	09/932185 8/17/01			today
19-Nov-01	ISSUE FEE AND DRAWINGS DUE 12/10/01	CSK	CSK/SJM	112.1003	09/554370 5/12/00			
19-Nov-01	CONVENTION YEAR ENDS 3/19/02	CSK	CSK/SJM	517.1001	09/811711 3/19/01			
19-Nov-01	RESPONSE TO ASSOCIATE'S QUESTIONS DUE 12/10/01	CSK	CSK/SJM	475.1003 EP				
19-Nov-01	FILE MISSING PARTS DUE 12/2/01(W/3 MO. EXT.)	CSK	CSK/TBH	218.1014	60/281943 4/6/01			
19-Nov-01	OFFICE ACTION RESPONSE DUE 12/20/01 ASSOCIATE WANTS INSTRUCTIONS BY 11/20/01	CMD/RJP	DGK	200.94395 EP	94 111733.5-1222			

REMINDER DATE / DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REDOCKET TO ... (NEW REMINDER OR DUE DATE)
19-Nov-01	FILE AMENDMENT BY 12/19/01 (DEADLINE DATE)	CMD/RJP	DGK	200.1095 JP	10-536980			✓
19-Nov-01	FILE MISSING PARTS DUE 11/20/01	CSKWCG	JMD	600.1146	09/033029 8/20/01			
19-Nov-01	OFFICE ACTION RESPONSE DUE 11/23/01 (W/1 MO. EXT.)	CMD	LBD	200.1015B CON	09/342964 6/29/99			11/21
19-Nov-01	OFFICE ACTION RESPONSE DUE 11/23/01 (W/1 MO. EXT.)	CMD	LBD	207.1015B N4	09/523360 3/10/00			11/21
19-Nov-01	PUBLICATION FEE DUE 12/10/01 (DEADLINE DATE)	CMD	LBD	200.1015B IL	120068			
19-Nov-01	OFFICE ACTION RESPONSE DUE 12/3/01 (W/1 MO. EXT.)	CMD	LBD	207.1015B N2	09/5233061 3/10/00			✓
19-Nov-01	OFFICE ACTION RESPONSE DUE 11/29/01(DEADLINE DATE)	LBD	LBD/BSD	540.91195 CIP JP	09-537444			
19-Nov-01	FILE IN HONG KONG BY 11/23/01?	LBD	LBD/RVZ	540.94408 EP DIV	1104276.9			

REMINDER DATE / DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REDOCKET TO ... (NEW REMINDER OR DUE DATE)
19-Nov-01	REQUEST EXAMINATION AND PAY FEES BY 3/19/02 ASSOCIATE WANTS INSTRUCTIONS BY 2/19/02	LBD	LBD/RVZ	540.93466 EP DIV	01107023.2			
19-Nov-01	REQUEST EXAMINATION AND PAY FEES BY 3/19/02 ASSOCIATE WANTS INSTRUCTIONS BY 2/19/02	LBD	LBD/RVZ	540.94408 EP DIV	001104276.9			
19-Nov-01	ISSUE FEE DUE 1/9/02	LBD	LBD/SLA	540.1004 CA	2216828 4/4/98			
19-Nov-01	PUBLICATION FEE AND ANY FURTHER CITED REFERENCES DUE 12/3/01	LBD	LBD/SLA	540.1004 CIP IL	117839			
19-Nov-01	FILE IDS & RCE BY 11/20/01	CMD	LSB	500.1007	09/284683 6/24/99	REMINDER LETTER SENT 9/26/01, AWAITING INSTRUCTIONS		
19-Nov-01	OFFICE ACTION RESPONSE & DRAWINGS DUE 11/23/01 (DEADLINE DATE)	CSK	MBW	174.1019	09/274952 3/23/99			
19-Nov-01	OFFICE ACTION RESPONSE DUE 12/20/01 ASSOCIATE WANTS INSTRUCTIONS BY 11/20/01	CMD	RJP/DGK	200.94395 EP	94 111733.5-1222			
19-Nov-01	FILE AMENDMENT BY 12/19/01 (DEADLINE DATE)	CMD	RJP/DGK	200.1095 JP	10-536980			

REMINDER DATE/ DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REDOCKET TO ... (NEW REMINDER OR DUE DATE)
19-Nov-01	RESPONSE TO NOTICE OF REJECTION DUE 12/10/01 (W/1 MO. EXT.)	CMD	RJP/RLC	332.94205 KR	95-705789			
19-Nov-01	OFFICE ACTION RESPONSE DUE 11/21/01 (3 MONTH DATE)	CMD	RJP/RVZ	222.94213 CON2	09/800204 3/6/01			
19-Nov-01	FILE NEW APPLICATION BY 11/23/01	CMD	RJP/RVZ	200.1141	NEW APPLICATION			
19-Nov-01	FILE AMENDMENT (DEADLINE DATE)	CMD	RJP/RVZ	200.93398 NO	19943761			
19-Nov-01	OFFICE ACTION RESPONSE DUE 12/3/01 (W/1 MO. EXT.)	CMD	RJP/SLA	332.1105 CIP	09/724321 11/28/00			
19-Nov-01	RESPONSE TO NOTICE OF REJECTION DUE 12/10/01 (W/1 MO. EXT.)	CMD/RJP	RLC	332.94205 KR	95-705789			
19-Nov-01	OFFICE ACTION RESPONSE DUE 11/21/01 (3 MONTH DATE)	CMD/RJP	RVZ	222.94213 CON2	09/800204 3/6/01			
19-Nov-01	FILE NEW APPLICATION BY 11/23/01	CMD/RJP	RVZ	200.1141	NEW APPLICATION			

REMINDER DATE / DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REDOCKET TO ... (NEW REMINDER OR DUE DATE)
19-Nov-01	FILE IN HONG KONG BY 11/23/01?	LBD	RVZ	540.94408 EP DIV	1104276.9			
19-Nov-01	NOMINAL DEADLINE FOR ACCEPTANCE DUE 11/26/01 (W/4 MO. EXT.)	CSK	RVZ	200.93398 AU DIV2	44493/90			
19-Nov-01	FILE AMENDMENT (DEADLINE DATE)	CMD/RJP	RVZ	200.93398 NO	19943761			<i>Done</i>
19-Nov-01	REQUEST EXAMINATION AND PAY FEES BY 3/19/02 ASSOCIATE WANTS INSTRUCTIONS BY 2/19/02	LBD	RVZ	540.93466 EP DIV	01107023.2			
19-Nov-01	REQUEST EXAMINATION AND PAY FEES BY 3/19/02 ASSOCIATE WANTS INSTRUCTIONS BY 2/19/02	LBD	RVZ	540.94408 EP DIV	001104276.9			
19-Nov-01	FILE MISSING PARTS DUE 11/20/01	CSK	SJM	206.1001	09/532185 8/17/01			
19-Nov-01	ISSUE FEE AND DRAWINGS DUE 12/10/01	CSK	SJM	112.1003	09/554370 5/12/00			
19-Nov-01	CONVENTION YEAR ENDS 3/19/02	CSK	SJM	517.1001	09/611711 3/19/01			

REMINDER DATE / DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REDOCKET TO ... (NEW REMINDER OR DUE DATE)
19-Nov-01	RESPONSE TO ASSOCIATE'S QUESTIONS DUE 12/10/01	CSK	SJM	475.1003 EP				
19-Nov-01	ISSUE FEE DUE 1/9/02	LBD	SLA	540.1004 CA	2216828 4/4/98			
19-Nov-01	OFFICE ACTION RESPONSE DUE 12/3/01 (W/1 MO. EXT.)	CMD/RJP	SLA	332.1105 CIP	09/724321 11/28/00			
19-Nov-01	PUBLICATION FEE AND ANY FURTHER CITED REFERENCES DUE 12/3/01	LBD	SLA	540.1004 CIP IL	117839			
19-Nov-01	FILE MISSING PARTS DUE 12/2/01(W/3 MO. EXT.)	CSK	TBH	218.1014	60/281943 4/6/01			
19-Nov-01	OFFICE ACTION RESPONSE AND DRAWINGS DUE 12/19/01 (3 MONTH DATE)	CSK	WCG	600.1051	09/589026 6/7/00			
19-Nov-01	SEND REPORTING LETTER RE: NOTICE OF ALLOWANCE RECEIVED	CSK	WCG	600.1061	09/571907 5/16/00			
19-Nov-01	SEND REPORTING LETTER RE: OFFICE ACTION RECEIVED	CSK	WCG	487.1015	09/647904 2/1/01			

REMINDER DATE/ DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REDOCKET TO ... (NEW REMINDER OR DUE DATE)
19-Nov-01	SEND REPORTING LETTER RE: FINAL OFFICE ACTION RECEIVED	CSK	WCG	443.1001	09/502104 2/10/00			
19-Nov-01	ISSUE FEE AND DRAWINGS DUE 12/19/01	CSK	WCG	600.1034	09/540790 3/31/00			
19-Nov-01	FILE MISSING PARTS DUE 11/20/01	CSK	WCG/JMD	600.1146	09/933029 8/20/01			



**EXHIBIT B**

REINDER DATE / DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO...	REDOCKET TO ... (NEW REMINDER OR DUE DATE)
14-May-02	CONVENTION YEAR ENDS 8/14/02	CSK	CSK	218.1022	09/929448 8/14/01			
14-May-02	CONVENTION YEAR ENDS 8/14/02	CSK	CSK	218.1023	09/929442 8/14/01			
14-May-02	PROVISIONAL AND CONVENTION YEAR ENDS 8/14/02	CSK	CSK	218.1024P	60/312308 8/14/01			
15-May-02	ADVISORY ACTION RESPONSE DUE 6/5/02	CSK	CSK	209.1099	09/098204 6/16/98			
15-May-02	FILE PRELIMINARY AMENDMENT?	CSK	CSK	206.1063 EP2	00961420.7	DDH18		
17-May-02	FILE MISSING PARTS DUE 6/17/02	CSK	CSK	479.1005 CON2	10/109066 3/28/02			SPD
19-May-02	PROVISIONAL & CONVENTION YEAR ENDS 7/19/02	CSK	CSK	218.1007P	60/306615 7/19/01			
19-May-02	PROVISIONAL & CONVENTION YEAR ENDS 7/19/02	CSK	CSK	218.1011P	60/306598 7/19/01			